

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARK RORABECK and SOUTHERN
LIGHTS FIREWORKS, INC., an Arizona
corporation,

Plaintiffs,

v.

No. CIV 02-731 BB/RLP

THE COUNTY OF MCKINLEY, a
political subdivision of the state of NEW
MEXICO, EARNEST C. BECENTI, Sr.,
HARRY MENDOZA, and BEN SHELLY,
individually and in their official capacities
as County Commissioners,

Defendants.

**MEMORANDUM OPINION AND ORDER DENYING REQUEST FOR
TEMPORARY RESTRAINING ORDER**

THIS MATTER having come before the Court on Plaintiffs' motion for a temporary restraining order and the Court having reviewed the written submissions of the parties and entertained oral argument, the Court finds the motion must be denied.

Discussion


In order to obtain a temporary restraining order the moving party must demonstrate (1) irreparable injury will result in the absence of the extraordinary equitable relief; (2) no other parties will be injured if the relief is granted; (3) there exists a substantial likelihood movant will prevail on the merits; and (4) the restraining order would serve the

public interest. *The Nation Magazine v. Department of State*, 805 F.Supp. 68 (D.D.C. 1992); *U.S. v. Phillips*, 527 F.Supp. 1340 (N.D. Ill. 1981). Preliminary injunction is an extraordinary remedy which should be granted only if the movant has clearly carried its burden on each of the four elements. *Calhoun v. USDA Farm Service Agency*, 920 F.Supp. 696 (N.D. Miss. 1996). At this stage of the proceedings the Plaintiffs have failed to persuade the Court on the first and fourth elements, and therefore the Court must deny the motion. *Boatwright v. Celebration Fireworks*, 667 N.E.2d 1094 (Ind. App. 1997); *Baton Rouge Fireworks Co. v. Police Jury of St. Charles Parish*, 127 So.2d 54 (La. App. 1961); *see also Zielinski v. Govier*, 599 N.W.2d 666 (Wis. App. 1999).

ORDER

Plaintiffs' motion for Temporary Restraining Order is DENIED.

Dated this 27th day of June, 2002.

A handwritten signature in cursive script, reading "Bruce D. Black", written in black ink on a white background.

BRUCE D. BLACK
United States District Judge